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KYLE COLTON

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,) Case No. 2:24-cr-00029-DAD
Plaintiff,)
v.)
KYLE COLTON,)
Defendant.)
}
}
}
**MOTION TO DISMISS INDICTMENT
AS COVERED BY PRESIDENTIAL
PARDON**

The Defendant, KYLE COLTON, moves the Court to dismiss the indictment on the ground that the charges in this indictment are covered by the Presidential Pardon on January 20, 2024. On January 20, 2025, the President pardoned Mr. Colton for crimes he committed (and pled guilty to in the District Court for the District of Columbia), as well as any “offenses related to events that occurred at or near the United States Capitol.” Specifically, *Executive Order dated January 20, 2025, Granting Pardons and Commutation of Sentences for Certain Offenses Relating to the Events at or Near the United States Capitol on January 6, 2021*, stated:

Acting pursuant to the grant of authority in Article II, Section 2, of the Constitution of the United States, I do hereby: . . . (b) grant a full, complete and unconditional pardon to all other individuals convicted of offenses related to events that occurred at or near the United States Capitol on January 6, 2021;

<https://www.whitehouse.gov/presidential-actions/2025/01/granting-pardons-and-commutation-of-sentences-for-certain-offenses-relating-to-the-events-at-or-near-the-united-states-capitol-on-january-6-2021/>

Subsequent to January 20, 2025, the Department of Justice has taken the position that indictments which are based only on evidence that was discovered pursuant to a search warrant for January 6th evidence are “related to events that occurred on or near the United States Capitol on January 6, 2021. *See U.S. v. Daniel Wilson, 1:23-cr-00427-DLF ECF 108 United States’ Response to Court’s February 24, 2025 Order Regarding Defendant’s Motion for Relief pursuant to 28 U.S.C. §2255*, Attached herein as Ex. A. The fact that this Court has held that the search warrant for January 6th evidence violated the Constitution by being issued without probable cause as to the computer shows how closely related this Sacramento investigation and charges were to what President Trump believed were excessive prosecution of persons like Mr. Colton who committed misdemeanor trespasses. Mr. Colton pled guilty and expressed remorse for his conduct on January 6th, but his child pornography case is not the typical case where a defendant is found because he was distributing or sharing. This indictment is based only on evidence found in an investigation which was looking for a conspiracy which did not exist.

Defense notes that the Defendant is still subject to prosecution by California state authorities for a felony violation of Cal. Penal Code §311.11. However, Defendant cannot plead guilty in federal court as that would prejudice his ability to negotiate with state authorities.

Respectfully submitted,

Dated: June 8, 2025

HEATHER E. WILLIAMS
Federal Defender

/s/ Douglas J. Beevers
DOUGLAS J. BEEVERS
Assistant Federal Defender
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